

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LEROY BARNETT

PLAINTIFF

V.

NO. 4:15-CV-00127-DMB-JMV

MARSHALL FISHER, et al.

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

On February 1, 2016, following a *Spears* hearing, United States Magistrate Judge Jane M. Virden issued a Report and Recommendation recommending that: (1) Leroy Barnett's claims regarding denial of medical treatment and retaliation be dismissed for failure to state a claim upon which may be granted; (2) Barnett's claims against Marshall Fisher and Earnest Lee be dismissed for failure to state a claim; and (3) Barnett's claim against Warden Timothy Morris for failure to protect be allowed to proceed. Doc. #14 at 7. The Report and Recommendation warned:

Objections must be in writing and must be filed within fourteen (14) days of this date, and "a party's failure to file written objections to the findings, conclusions, and recommendation in a magistrate judge's report and recommendation within [14] days after being served with a copy shall bar that party, except on grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court" *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)(citations omitted); *see also United States v. Carrillo-Morales*, 27 F.3d 1054, 1061-62 (5th Cir. 1994), cert. denied, 513 U.S. 1178, 115 S.Ct. 1163, 130 L. Ed. 1119 (1995).

Id. at 8. Barnett received a copy of the Report and Recommendation on February 4, 2016. Doc. #16.

To date, no objections to the Report and Recommendation have been filed. Accordingly, this Court's review of the Report and Recommendation is limited to plain error. *Morales v.*

Mosley, No. 3:13-cv-848, 2014 WL 5410326, at *2 (S.D. Miss. Oct. 22, 2014) (citing *Shelby v. City of El Paso*, 577 F. App'x 327, 331 (5th Cir. 2014) (“When there has been no objection to a report and recommendation, review is limited to plain error.”)).

The Court has reviewed the Report and Recommendation and found no plain error. It is therefore ordered:

1. The Report and Recommendation [14] is **ADOPTED** as the Order of the Court;
2. Leroy Barnett’s claims regarding denial of medical treatment and retaliation are **DISMISSED** for failure to state a claim upon which may be granted;
3. Barnett’s claims against Marshall Fisher and Earnest Lee are **DISMISSED** for failure to state a claim; and
4. Barnett’s claim against Warden Timothy Morris for failure to protect may **PROCEED**.

SO ORDERED, this 27th day of May, 2016.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE